

RESOLUTION NO. 2016-_____

**A RESOLUTION ACCEPTING THE CITY CLERK'S CERTIFICATE OF SUFFICIENCY
BUT REJECTING THE PETITION FOR A CHARTER AMENDMENT AS
MANIFESTLY UNCONSTITUTIONAL**

WHEREAS, the City Council of the City of Bloomington is the official governing body of the City of Bloomington, a home rule charter municipal corporation organized in accordance with the laws of the State of Minnesota; and

WHEREAS, a committee of five registered Bloomington voters circulated and properly presented to the Bloomington City Charter Commission a petition entitled "Ballot Question Petition – Charter Amendment" to amend the Bloomington City Charter, as follows:

"Unless first approved by a majority of the voters in a state general election, the City shall not replace the competitive market in solid waste collection with a system in which solid waste services are provided by government-chosen collectors or in government-designed districts. The adoption of this charter amendment shall supersede any ordinances, ordinance amendments, or charter amendments related to solid waste adopted by the city council in 2015-2016" (hereinafter the "Petition").

WHEREAS, the Petition was received by the City Charter Commission at its June 9, 2016, special meeting and thereafter transmitted to the City Clerk for verification of the signatures, as required by Minnesota Statutes Section 410.12.

WHEREAS, Minnesota Statutes Section 410.12, requires that the Petition include the exact text of the amendment, that it be signed by 5% of the total votes cast at the last previous state general election in the City, that each separate signature page there must be an affidavit of the circulator stating that he personally circulated the signature page, all signatures on it were made in his presence and he believes the signatures to be the genuine signatures of the persons whose names they purport to be.

WHEREAS, the City Clerk has determined that the Petition contains the requisite number of signatures by qualified registered voters and meets the form requirements set forth in state law.

WHEREAS, the Petition proposes a charter amendment that would invalidate a lengthy and thoughtful legislative process that included studies, the work of a consultant, public input and public hearings preceding the adoption of Ordinance 2015-45 effectuating organized solid waste collection in the City.

WHEREAS, the Petition constitutes a legally invalid attempt to reinstate a previously failed referendum of Ordinance 2015-45, the deadline for which expired on January 15, 2016, pursuant to Bloomington City Charter Section 5.05.

WHEREAS, the Petition proposes a charter amendment that would violate the constitutional protections of due process by its retroactive application to, and invalidation of, the previously vested

rights and responsibilities of the Bloomington Haulers, LLC, the City as a municipal corporation, and the residents, which were created by: the March 2014, adoption by the City of a comprehensive Solid Waste Management Plan; the June 22, 2015, adoption of Resolution 2015-71 directing the implementation of organized solid waste collection in the City; the December 21, 2015, adoption of Ordinance 2015-45 effectuating organized solid waste collection in the City; and the December 21, 2015, approval of the contract with Bloomington Haulers, LLC for organized solid waste collection in the City.

WHEREAS, the Petition proposes a charter amendment that goes beyond the statutory authorization of Minnesota Statutes Section 410.12 by its application to a broad range of official actions by the Bloomington City Council including the adoption of ordinances, and its requirement that those actions receive the after-the-fact approval of the electorate in order to be effective so as to render these official actions unconstitutionally vague.

WHEREAS, the Petition proposes a charter amendment that is preempted by the laws and policies of the State of Minnesota as evinced in its Waste Management Act, Minnesota Statutes Chapter 115A, as set forth in Section 115A.02.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON IN REGULAR MEETING ASSEMBLED:

1. That the Certificate of Sufficiency is accepted and that the City Clerk is directed to retain this document along with the Petition as an official record of the City of Bloomington.
2. That the Petition be excluded from the ballot in the next general election on the basis that, for the foregoing reasons, it is determined to be manifestly unconstitutional.

Passed and adopted this ____ day of _____, 2016.

Mayor

ATTEST:

Secretary to the Council